

REMARKS

Claims 2 and 3 have been amended in accordance with the Examiner's suggestions. No new matter has been added. Favorable reconsideration of the subject application as amended, is respectfully requested in view of the following comments.

Formal Matters

Applicants respectfully submit herewith formal drawings in response to the Examiner's request.

Applicants wish to point out to the Examiner that an Information Disclosure Statement was filed concurrently with the subject application on May 15, 2001. Pursuant to 37 CFR § 1.98(d), copies of the listed references were not provided because the subject application claims priority under 35 U.S.C. § 120 to U.S. Ser. No. 09/442,631 filed November 18, 1999, now U.S. Pat. 6,300,489. Applicants are submitting herewith an IDS Form-1449 that includes all of the references listed in the IDS Form-1449 filed May 15, 2001 as well as Oh et al., Plant Molecular Biology, 1999, 41(3):313-319. Oh et al., was not included in the IDS Form-1449 filed May 15, 2001, however, it was disclosed and considered during prosecution of U.S. Ser. No. 09/442,631 filed November 18, 1999, now U.S. Pat. 6,300,489.

Claims 2 & 3 have been objected to because the Examiner alleges that they fail to use articles in certain places. Applicants have amended the claims to obviate these objections. Withdrawal thereof is respectfully requested.

Rejection of claims 1-3 under 35 U.S.C. § 102(b)

Claims 1-3 are rejected under 35 U.S.C. § 102(b) for allegedly being anticipated by Frommer (US. Pat. 5,719,043). The Examiner alleges that Frommer teaches a cDNA sequence that is 100% identical to the SEQ ID NO: 1 recited in Claim 3. Applicant respectfully disagrees.

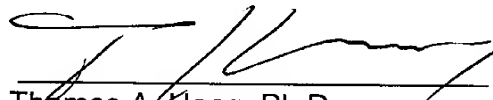
Frommer teaches a 1685bp Arabidopsis cDNA encoding a 507 amino acid

transporter. The subject application claims an isolated nucleic acid molecule encoding a pepper thionin-like protein (PepThi) from pepper having an amino acid sequence of SEQ ID NO: 2 (83aa) and an isolated nucleic acid molecule having the nucleic acid sequence of SEQ ID NO: 1 (506bp). The claimed sequences are clearly not anticipated by the reference cited by the Examiner and Applicants request that the Examiner carefully reconsider and withdraw this rejection.

It is not believed that extensions of time or fees for net addition of claims are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to our Deposit Account No. 11-0600.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

2. The isolated nucleic acid molecule according to claim 1, wherein said pepper thionin-like protein (*PepThi*) is expressed in a plant in response to infection by a microorganism.

3. The isolated nucleic acid molecule according to claim 1, wherein said nucleic acid molecule is a cDNA molecule having a nucleotide sequence of SEQ ID NO:1.